

1904-651 Chancery Causes: W. M. Venable vs. J. F. Allen & Co.
Lee Co.

Carroll, Powells Valley Bank], Merriman, Lockhart

-Deed

CA-Debt

T-Property

W. M. Venable

VS.

J. F. Allen.

To the Honorable H.A.W.Skeen Judge of the Circuit
Court for Lee County:

Humbly complaining, Your Orator, W.M.Venable, would respectfully represent and show unto Your Honor, that on the 25th day of July 1903, the Powells Valley Bank, a corporation, obtained before H.C.Joslyn, a justice of the peace, a judgment for the sum of \$67.50 with interest thereon from the 17th day of June, 1903 until paid and costs \$1.75, against Your Orator and J.F.Allen. Since the rendition of the said judgment, to-wit, on the 1st day of January, 1904, Your Orator was compelled to pay the sum of \$36.07. *which has now been repaid, to him via now this* Your Orator represents that he was the surety of the said Allen in said judgment, and that it was the duty of the said J.F.Allen to have paid the whole of the said judgment. Your Orator further represents that the said Powells Valley Bank has pending in Your Honor's court a chancery suit for the purpose of enforcing the said judgment, or the remainder thereon, along with other judgments against the real estate of your said Orator.

Your Orator would further respectfully represent unto Your Honor, that some time ago the said J.F.Allen bought a tract of land containing about twenty seven acres from Robert Williams, for which he paid, as Your Orator is informed, the price of two hundred dollars *✓ had the title made to his wife Mary Allen. But you need* (\$200.00). The said tract of land is situated on Walden's Ridge near Flanary's store and is a part of the old Tom Burke place, and is a tract of land which Williams bought from J.Wes Glass. Sometime ago also the said Allen purchased a tract of four and one half acres from one H.T.Ferguson, consisting of a house and lot near to the above tract of land last set out. Ferguson was to have \$150.00 of the purchase price of said land in payment by a team of horses, and

perhaps was to receive further payment, but as to this, Your Orator is

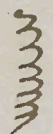
not certain. The said Allen sold said tract of land to one Robert Carroll, but he alleges that said Allen has never made to the said Carroll any deed of conveyance for the said tract of land, but the said H.T.Ferguson conveyed to the said Carroll the said tract of land as will be seen by a copy of the said deed here filed as a part of this bill marked "Exhibit A" and copied from the records of County Court from Deed-Book No. 41, page 92. *& your orator alleges that the rents & profits of said tract will not pay off said judgments in full* Your Orator is also informed that one Martha Mitchell, on the 4th day of January, 1897, procured a judgment for \$6.00 against said Allen with costs, and that recently W.B. Merriman, as Administrator of the estate of David Lockhart, secured a judgment against J.F. Allen and Your Orator for the sum of \$_____, as will be seen from a copy of the said judgment here filed as a part of this bill as "Exhibit B". One half of the said judgment last aforesaid is primarily the debt of Your Orator, and the remainder of the said debt due to said Merriman Your Orator is only security for.

The premises considered, Your Orator is advised that he has *to have said debt to Amy Allen set aside & to have* a right to have said tract of twenty seven acres of land sold and subjected to the payment of said judgments aforesaid, and that he also has the right to have sold said tract of four and one half acres which said H.T.Ferguson conveyed to said Robert Carroll, and that said deed from said Ferguson to said Carroll as to the judgments of your said Orator and all other judgment creditors of the said Allen is void. Your Orator is further advised that the said Powells Valley Bank and the said Merriman as Administrator as aforesaid, should first enforce the lien of their judgments against the lands of said Allen before making sale of his lands for the payment of said judgments aforesaid. The prayer, therefore, of Your Orator is that the said J.F. Allen, Robert Carroll *Amy Allen* and the Powells Valley Bank be made parties to this bill, complaint and be required to answer the same, but not under oath, that being expressly waived. That upon a hearing, a decree be rendered directing an account to be

taken and an ascertainment of the liens against the said lands
aforesaid and the priorities of the said judgments, and that upon
a coming in of the report of the commissioner so ascertaining said
liens as aforesaid, a decree be rendered directing a sale of the
said lands aforesaid, in order that the liens of your said Orator
may be satisfied, in so far as he is security for the said J.F.Allen,
and may all other further and general relief be granted as the
nature of his case and good conscience may require, and he will
ever pray, etc.

Pumroyter Bros & Co.

N. M. Venable ~~etc~~

v.  Bee for
Chomney

J. F. Allen et al

W.M.Venable)	
)	
vs.)	Petition of W.B.Merriman, Administrator.
)	
J.F.Allen))	

To the Honorable H.A.W.Skeen, Judge of the Circuit Court for Lee County:

Humbly complaining your petitioner, W.B.Merriman, administrator of the estate of David Lockhart, would represent and show unto Your Honor, that at the 1st February rules, 1904, W.M.Venable filed his suit in Your Honor's court against J.F.Allen et als, for the purpose of having enforced certain judgments, which the said Venable et als had against the said J.F.Allen. Your petitioner would respectfully represent unto your Honor, that on the ____ day of _____ 190__, as administrator of the estate of David Lockhart, he obtained before a justice of the peace a judgment for the sum of \$ _____ with interest thereon from ____ day of _____ 190__ and \$ _____ costs against the said W.M.Venable and J.F.Allen, which judgment was rendered for a debt due to your petitioner as administrator of said estate for certain goods and chattels, which the said J.F.Allen and W.M.Venable had purchased at a sale of the personal property of the said decedent, the said J.F.Allen being security to the said W.M.Venable for one half of the said debt and the said W.M.Venable security to said J.F.Allen for the other half of said debt. Your petitioner joins with the said W.M.Venable in representing as true the facts as set out in the said plaintiff's bill, in reference to the two certain tracts of land therein mentioned, and join with the said plaintiff, W.M.Venable, in asking that the land therein mentioned be sold to satisfy the judgment liens that exist against said land and, especially, the judgment lien of your petitioner.

Your petitioner asks that the deed made by the said Henry T.Ferguson to Robert Carroll be annulled, vacated and set aside,

as to the judgments of your said petitioner and to the judgment
lien creditors of the said J.F.Allen. Your petitioner prays that
he may be allowed to be made a party to this suit and be entitled
to all the benefits, which his judgment lien may entitle him, and
to all relief which it is equity that he should have in the said
suit along with the other judgment creditors, and may all further and
general relief be granted him as the nature of his case requires, and
he will ever pray, etc.

P. M. - p.q.

W. M. Kuokke

v. 3 Petition of
3 ~~the~~
3 N. B. Munn
Admiral -

J. F. Allen et al

Quinn

To the Hon. H. A. W. Skeen, Judge of the Circuit Court
for Lee County, Virginia:-

=====

The separate demurrer and answer of Nancy Allen to a bill
filed in the said court against her and others by W. M. Venable:

Respondent says that the bill is not sufficient in
law and demurs thereto, but should any further answer be re-
quired of her, she answers as follows;

That she knows nothing from her personal knowledge about
the judgments sought to be enforced as set out in said bill,
and neither admits nor denies them, but in so far as her interests
are to be affected thereby, she calls for strict proof thereof.

Respondent denies that J. F. Allen bought the twenty-
seven acre tract of land, set out in said bill, from Robert Williams,
or had any contract whatever therefor with the said Williams, and
denies that the said J. F. Allen had the title to the said twenty-
seven acre tract of land made to her, his wife;

And denies that the said J. F. Allen paid the whole of the
purchase money for the said tract of land, or any part thereof;
and denies that he had the title made to your respondent for the
purpose of hindering, delaying or defrauding his creditors, and
denies that the said conveyance was made to her voluntarily and without
consideration from her.

Respondent alleges that she bought directly from the said
Robert Williams, the said twenty-seven acre tract of land, and paid
the full consideration therefor, which was \$200, and which was her
own means, and the said consideration thereof did not belong to the
said J. F. Allen.

Respondent says that it is true that the said tract of
land is situated on Wallens ridge near Flanary's store, and is a
part of the Old Tom Burk place, and which she supposes said Williams
bought from J. West Glass. Respondent being the purchaser direct
from the said Williams for the said twenty-seven acre tract of land

she, of course, had a right to have made to her a deed, and the said deed was made to her for said tract of land.

Respondent denies the right of the plaintiff, or any judgment creditors in said bill, to enforce their said judgments against her said twenty-seven acre tract of land.

Respondent now denying each and every allegation in said bill not hereinbefore admitted ^{or} denied, and having answered as fully as she is advised that it is material for her to answer, prays to be hence dismissed with her reasonable cost in this behalf expended, and she will ever pray &c.

B. H. Sweeney,
Atty for Respondent,

Nancy Allen
Ado { C. C. C. C.
W. M. Venable

Filed April 4th 1904
H. L. Ewing clk

J.F.Allen.et als)

ads.)

W.M.Venable)

Answer of the Powells Valley Bank.

To the Honorable H.A.W.Skeen Judge of the Circuit Court for
LeeCounty:

The answer of the Powells Valley Bank, a Corporation, to
a bill in chancery filed in Your Honor's court by W.M.Venable against
your respondent and J.F.Allen, for an^wser to the said bill, your
respondent would say that it is true that on the 17th day of June, 1903
your respondent obtained before a justice of said county of Lee, a
judgment against said J.F.Allen and W.M.Venable for the sum of \$67.50
with interest thereon from the 17th day of June, 1903 until paid and
\$1.75 costs. It is also true that said W.M.Venable has paid to your
respondent's attorneys the sum of \$36.07 on the 1st day of January, 1904,
for which the said W.M.Venable is entitled to credit as paid by him
on the said judgment.

Your respondent is also advised that the allegations of the
said Venable's bill, so far as they relate to two certain tracts of
land which the said J.F.Allen owned, or has owned, are true and your
respondent adopts the allegation of the said bill as the statement
of your said respondent, and joins with the said W.M.Venable in
asking for the relief sought in the said bill. Your respondent is
advised that it is doubtful that the lands of the said W.M.Venable,
for which your respondent has pending a bill to enforce its various
judgment liens against said Venable, will bring a sum sufficient to
pay all the liens against said land which have priority over the
the judgment of your said respondent, as represented by the said
judgment of said 17th day of June, 1903 for said sum of \$67.50, and
your respondent prays that, unless said lands of said Venable do
bring a sum sufficient to pay said judgment, that they be allowed
to share in the proceeds of the sale of the land sought to be sold in
this suit, and now having answered the said bill as fully as it is
advised that it is necessary it should answer, they pray to be hence
dismissed.

Chas. L. P. p.d.

J. F. Allen etc
ad. 3 Ans of
3 V. Bunt
3

N. M. Vaneboe

J. F. Allen,)

Ads.)

W. M. Venable,)

Demurrer

Respondent J. F. Allen says, that the bill of the plaintiff in the above styled cause is not sufficient in law, and he demurs thereto. He assigns for grounds for his demurrer the following:

First: That the bill does not state that the rents and profits of the said real estate will not in five years pay all the judgments.

Second: The bill does not allege that the said judgments therein sought to be enforced are unpaid.

Third: The plaintiff has no legal right in a court of Equity to be substituted to the rights of the Powell's Valley Bank, in this cause, until it has paid off and ~~discharged~~ ^{charged} the debt for which he was surety.

Fourth: As stated in the bill there is pending in this court a Chancery suit of the Powell's Valley Bank against Wm. Venable to enforce a judgment against him and J. F. Allen. J. F.

Allen is made party to said suit and the plaintiff in this suit ^{can} obtain all the rights therein, that he asks in this suit against the said J. F. Allen. He can not proceed in a separate suit for himself and the benefit of other creditors against the said Allen if he can enforce his rights, if he has any, against the said Allen in the said Powell's Valley Bank suit.

*B. H. Sewell atty
for defts,*

J. F. Keeneston
Also { DeMurren
W. M. Venable

To the Hon. H. A. W. Skeen, Judge of the Circuit Court
for Lee County, Virginia:-

The separate demurrer and answer of J. F. Allen to a bill
filed in the said court against him and others by W. M. Venable.

Respondent says that said bill is not sufficient in law and
demurs thereto, but should further answer be required of him he
answers as follows:-

That it is true that on the 24th day of July, 1903, the
Powell's Valley Bank obtained a judgment before H. C. Joslyn, a
Justice of the Peace, against him and the said Venable for \$67.50,
with interest thereon from the 17th day of June, 1903, until paid,
and \$1.75 cost; that he does not know from his own personal knowl-
edge that the said Venable has paid, since the rendition of said judg-
ment on the 1st, day of January, 1904, the sum of \$36.07, or any
other sum, and respondent denies that he is indebted to the said
W. M. Venable in the said sum of \$36.07, or any other sum, but admits
that the said Venable was his surety on the debt of the Powell's
Valley Bank.

Further answering your respondent says that instead of him
owing the said Venable any sum of money, the said Venable is indebted
to him in the sum of \$135.85, for work performed for the said Venable,
and that, out of the said sum the said Venable was to pay off and
discharge for him the said Powell's Valley Bank debt, and if the
said Venable has paid anything for him it was under this agreement
with the said Venable to do so. Respondent hereby pleads as an off-
set the said sum of \$135.85 to any demand the said Venable may allege
against him, and asks for judgment over against him for the excess.

As to whether or not the said Powell's Valley Bank has pend-
ing in this court a chancery suit for the purpose of enforcing said
judgment, or any remainder thereon, ^{against said Venable,} he does not know of his own
knowledge, but supposes that it is true.

Respondent denies that he bought a tract of land containing
twenty-seven acres from Robert Williams, and paid therefor the price

of \$200.00, and he alleges that he never did buy the said tract of land himself, or had any contract whatever therefor. He alleges that this tract of land was bought from the said Williams by his wife, Nancy Allen, and she paid all the purchase money therefor, which was \$200.00, out of her own means, and not out of his means, and that the said tract of land was conveyed by the said Williams to his said wife. And it is true that the said tract of land is situated on the Wallens Ridge, and is a part of the Old Tom Burk place, and which Williams bought from J. W. Glass. He herewith files as a part of his answer the deed from the said Williams to Nancy Allen.

Respondent denies that he had the title made to his said wife for said land, and denies that he paid the whole purchase money, or any part thereof. He denies that he had the title made to her for the purpose of hindering, delaying and defrauding his creditors, and denies that said conveyance to her was voluntary and without consideration from her.

Respondent denies that he ever purchased the four and one half acre tract of land alleged in said bill, from H. T. Furgerson consisting of a house and lot near the above described tract of land. This purchase was made direct by Robert Carrol from the said Furgerson. This transaction was as follows:

Nancy Allen, the wife of your respondent, held a note against H. T. Furgerson for \$75.00. This note she traded to Carrol for a bay mare, and Carrol used the note in purchasing from the said Furgerson the said four and one-half acre piece of land, and that Furgerson conveyed it direct to him as he was the purchaser, and your respondent denies that he bought said four and one-half acre tract of land from the said Furgerson, and denies that he sold the same to the said Robert Carrol. Respondent denies that H. T. Furgerson was to have \$150.00 of the purchase price of said land in payment for a team of horses, or other payments from him.

Respondent denies the allegation in the bill that the rents and profits of said real estate would not in five years pay off said judgment, and alleges that the rents thereof would pay off said

judgment in five years. -3-

Respondent says that it is true that Martha Mitchel on or about the 4th day of January, 1897, procured a judgment against him for \$6.00, and the cost, but says that he has paid off said judgment in full and does not owe anything thereon. He says that it is also true that W. B. Merriman, the administrator of David Lockhart, obtained a judgment against him and W. M. Venable for the sum of \$_____, but he denies that only one-half of the said judgment is the debt of the said Venable. He alleges that the said Venable is liable for all of the said judgment to the said Merriman, except \$10.00, and for this much the said Venable was his surety, and no more.

Respondent now denying each and every allegation in said bill not hereinbefore admitted or denied, and having answered as fully as he is advised that it is material that he should answer, prays to be hence dismissed with his reasonable cost in this behalf expended, and he will ever pay &c.

*R. H. Sewell,
Atty for Respondent.*

J. F. Allen
Adm { Treasurer

W. M. Venable

Filed April 4th ~~1904~~ 1904
J. L. Ewing Clerk

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for
Lee County, Virginia.

The separate demurrer and answer of Robert Carrol to a bill
filed in said court against him and others by W. m. Venable.

Respondent says that the bill is not sufficient in law
and he demurs thereto, but not waiving said demurrer, but relying
and insisting thereon, and should any further answer be required he
answers as follows:

That he knows nothing of his own personal knowledge about
the judgments sought to be enforced as set out in said bill, *and*
neither admits or denies them, *but* in so far as his interests *are sought to*
be affected thereby he calls for strict proof *thereon*.

Respondent denies that J. F. Allen purchased the 4 1/2
acre tract of land from H. T. Furgerson, consisting of a house
and lot, near the first tract of land described in said bill, and
denies that the said Furgerson was to have \$150 of the purchase
price of said tract of land in paying for a team of horses, or any
other way from the said J. F. Allen. He denies that the said Allen
sold said tract of land to him, and says that it is true that Allen
never made any deed of conveyance to him for this tract of land,
because he did not buy it from the said J. F. Allen, or have any con-
tract or transaction with him for the purchase thereof.

Respondent alleges that he, himself, bought direct from the
said H. T. Furgerson, the said 4 1/2 acre tract of land, and paid him
the full purchase money therefor, which was \$75.00, and the said
H. T. Furgerson and wife conveyed to him the said 4 1/2 acre tract.
by deed dated November 27th, 1903, and recorded in the Clerk's Office
of the County Court for Lee County, in deed book 41, page 92, and
the exhibit "A", filed with the plaintiff's bill is a copy thereof,
and respondent denies that the plaintiff has any right to subject said
piece of land to the payment of any debt alleged in said bill, *and*

Respondent now denying each and every allegation in said bill not hereinbefore admitted or denied, and having answered as fully as he is advised that it is material that he should answer, prays to be hence dismissed with his reasonable cost in this behalf expended, and he will ever pray &c.

*B. H. Sewell Atty
for Respondent,*

Robert Carroll
Ass { Answer

W. M. Tenable.

Filed April 4th 1904
H. C. Ewing clk.

W.M.Venable, Complainant,

vs.

J.F.Allen, The Powells Valley Bank,
Incorporated, Robert Carroll and
Nancy Allen, Defendants.

In Chancery.

This cause came on this day to be heard upon the bill of the complainant, the exhibits filed therewith and the demurrer of J.F.Allen to the said complainant's bill, the petition of W.B.Merriman filed herein by leave of court, and the answer of the Powells Valley Bank filed herein by leave of court, and was argued by counsel: On consideration of all which, the said demurrer of the said J.F.Allen is hereby sustained and the said plaintiff is given leave to amend his said bill, which was done at bar, and the case then coming on to be heard upon the said amended bill and the appearance of the said J.F.Allen and Nancy Allen, ^{Robt Carroll} the Powells Valley Bank and W.B.Merriman to said amended bill in court without process, leave is granted the said J.F.Allen, Nancy Allen and Robert Carroll to file their answers to said bill at the 1st of April rules, 1904, and it appearing further to the court that the matters involved in this cause are connected with, and form a part of, the pending chancery cause of the Powells Valley Bank vs. W.M.Venable, it is hereby ordered that this cause be brought on to be heard with the said cause, and this cause is continued.

H. M. Thoburn

& 3 Dec

J. H. Allen & Co

En. in C. C. B. No. 7

page 438

Ents this
Decr. Feby 25

1904

Hawthorn

THIS DEED made this 27th day of November 1903, by and between Henry T. Ferguson and Mollie J. Ferguson of the first part and Robert T. Carroll party of the second part; all of the County of Lee and State of Virginia;

Witnesseth, that the said Ferguson & wife have this day sold unto the said Carroll a certain tract or parcel of land for and in consideration of the sum of Seventy five dollars in hand paid, by the party of the second part to the party of the first part the receipt of which is hereby acknowledged do by these presents, grant, bargain, sell, deliver and convey unto the party of the second part a certain lot of land lying and being in the County and State aforesaid, and on the waters of Wallens Creek and on a branch known as the Burk branch joining the land of A. C. Flanary & Frank Martin and bounded as follows to-wit; Beginning at a stake on a rock by the side of said branch and near a spring and running northwardly with said branch to a rock on side of the branch, thence eastwardly to a black oak on the hill thence northwardly to a sourwood thence westwardly to the beginning, containing four acres,

To have and to hold unto the said Robert L. Carroll and his heirs forever, together with all its appurtenances thereunto belonging and the said Henry T. Ferguson and wife do hereby covenant that they will warrant generally the tract of land hereby conveyed. Witness the following signatures and seals, the day and year first herein written.

Henry T. Ferguson (Seal)

Mollie J. Ferguson (Seal)

State of Virginia, County of Lee to-wit;

I, J. W. McPherson a Justice of the Peace for the County in the State of Virginia, do certify that Henry T. Ferguson & Mollie J. Ferguson whose names are signed to the writing hereto annexed, bearing date on the 27th day of November 1903, have acknowledged the same before me in my County aforesaid.

Given under my hand this 27th day of November 1903.

J. W. McPherson J. P.

Virginia, Lee County to-wit;

In the Office of the Clerk of the County Court for said County, the 1st day of January 1904. This deed was presented, and together with the certificate of acknowledgment thereto annexed, admitted to record.

A Copy, Teste; B. M. Morgan --- Clerk. Teste; B. M. Morgan, Clerk.

Henry T. Ferguson
To & Deed

Robert T. Carroll

Copy
of

Exhibit "A"

Clerk 50 cts -

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *J. F. Allen and*
Robert Carroll

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be
held for the said court, on the *1st* Monday in *February* 190*4*, to answer a
bill in chancery exhibited against *them* in our said court by
W. M. Venable

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court,
at the court-house, the *20th* day of *January*, 190*4*, and in the 12*8th*
year of the Commonwealth.

A. B. Munsey, Clerk.

Serve Copies on
the inside on
M. M. Venable and
Robert Carroll

McPherson

M. M. Venable

vs.

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SUBPEONA
IN CHANCERY.

J. F. Allen et al

Pennington Bros. & Co.

To 1st February Rules.

1904, Circuit Court.

Exhibited by summons & Delivering
a copy of the within notice to

J. F. Allen & Robert Carroll

this ^{the} Jan 26 1904

C. J. McPherson D.S.

for P. M. Ball

N. M. Venable

v.s. $\frac{3}{3}$ for Chancery

J. F. Allen & Co

1904 1st Feby rules bill filed
Spa executed & D. N.

" 2nd Feby rules held the 2nd
Monday in Feby D. N.
Confirmed & Cause set
for hearing

Ames Allen

From \$200.00

Robt Williams -

Nov 14-1903-

3 acres - in 1300. valley

Pffa.

Costs:

M. Clark .50

E. " 5.07

Shff. 1.00

Atty 15.00

Tax 1.50 Money

\$23.07

Defts

Costs:

Clark 90¢

THE GLOBE TENSION ADJUSTABLE ENVELOPE.
SIZE 109